

9-032A033

No. 1

Date JAN 3 1979

Fee \$1.00

RECORDATION NO. 9980 Filed 1425

JAN 3 1979-9 15 AM

INTERSTATE COMMERCE COMMISSION

THE FIRST NATIONAL BANK OF BOSTON
100 Federal Street
Boston, Massachusetts 02110

ICC Washington, D. C.

December 29, 1978

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 9980 Filed 1425

JAN 3 1979-9 15 AM

INTERSTATE COMMERCE COMMISSION

Re: Recordation and Filing of Documents Pertaining
to the Mortgage and the Management of Ten
Covered-Hopper Railroad Freight Cars Owned by
John M. Randolph

Dear Sir:

In accordance with the provisions and procedures of Section 11303 of the Revised Interstate Commerce Act, 49 U.S.C. §11303, and Part 1116 of Title 49 of the Code of Federal Regulations, it is hereby respectfully requested that the documents enclosed with this letter of transmittal, and more fully described hereinbelow, pertaining to the mortgage and the management of ten (10) covered-hopper railroad freight cars owned by John M. Randolph, be recorded and filed by the Interstate Commerce Commission (the "Commission") pursuant to Section 1116.5 of said Title 49 of the Code of Federal Regulations.

A. Description of the Documents and the Parties Thereto.

Enclosed herewith are the following original documents to be recorded by the Commission and two certified true copies of each of said original documents to be recorded and filed by the Commission:

(i) Promissory Note and Security Agreement, dated December 13, 1978, made by John M. Randolph, an individual residing at 201 West Old Mill Road, Greenwich, Connecticut 06830, and accepted by The First National Bank of Boston, 100 Federal Street, Boston, Massachusetts 02110 (said Promissory Note and Security Agreement being hereinafter called the "Note"); and

(ii) Management Agreement, dated November 15, 1978, by and between States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York 10017, and John M. Randolph, an individual residing at 201 West Old Mill Road, Greenwich, Connecticut 06830 (said Management Agreement being hereinafter called the "Management Agreement").

FEE OPERATION BR.
I.C.C.

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RECEIVED

States Marine Corp.
John M. Randolph

1. The Note.

The First National Bank of Boston (the "Bank") has agreed, upon the terms and subject to the conditions contained in the Note, to make a loan in the principal amount of Two Hundred Sixty-Six Thousand Two Hundred and Fifty Dollars (\$266,250.00) (the "Loan") to John M. Randolph (the "Investor"). The entire proceeds of the Loan will be applied by the Investor towards the payment of the purchase price of ten (10) covered-hopper railroad freight cars purchased by the Investor from National Steel Car Corporation, Limited, a Canadian corporation located in Hamilton, Ontario, Canada (the "Manufacturer"). Further particulars of the ten (10) covered-hopper railroad freight cars so purchased by the Investor from the Manufacturer (the said ten (10) covered-hopper railroad freight cars being hereinafter called the "Investor's Covered-Hopper Railroad Cars") are set forth below.

In order to secure the payment and performance by the Investor of all of his obligations to the Bank under the Note, the Investor has, pursuant to Section 7 of the Note, granted to the Bank a mortgage over and in respect of each of the Investor's Covered-Hopper Railroad Cars.

Each of the Investor's Covered-Hopper Railroad Cars is a 100-ton, 4,550 cubic feet capacity, steel covered-hopper railroad freight car, lined for use in the transport and shipping of grain products and select minerals, including salt. Each of the Investor's Covered-Hopper Railroad Cars was manufactured by, and was purchased by the Investor from, the Manufacturer.

The Identifying Marks, the Serial Numbers and the A.A.R. Mechanical Designation of the Investor's Covered-Hopper Railroad Cars are as follows:

<u>Number of Cars</u>	<u>Identifying Marks</u>	<u>Serial Numbers</u>	<u>A.A.R. Mech. Desig.</u>
10	GNWR	810000 to and including 810009	LO

Reference is hereby also made to a Fiscal Agency Agreement, dated as of December 13, 1978, among (a) States Marine Corporation, acting in its individual capacity directly or by and through its division, States Rail Services, 280 Park Avenue, New York, New York 10017, (b) States Marine Corporation, acting as agent for the Investor by and through its division, States Rail Services, 280 Park Avenue, New York, New York 10017, (c) the Bank, and (d) the Investor (said Fiscal Agency Agreement being hereinafter called the "Fiscal Agency Agreement").

States Marine Corporation, acting in its individual capacity directly ("SMC"), has, upon the terms and subject to the conditions and limitations contained in the Fiscal Agency Agreement, guaranteed to the Bank the payment of the obligations of the Investor to the Bank under the Note. The maximum

liability of SMC to the Bank under the SMC guarantee is limited to the sum of \$35,500.00.

2. The Management Agreement.

Pursuant to the terms of the Management Agreement, States Marine Corporation, doing business through its division, States Rail Services ("SMC/SRS"), has agreed to manage, on behalf of and as agent for the Investor, the ten (10) Investor's Covered-Hopper Railroad Cars purchased by the Investor from the Manufacturer and mortgaged by the Investor to the Bank pursuant to Section 7 of the Note. In accordance with the terms of the Management Agreement, SMC/SRS took possession of each of the Investor's Covered-Hopper Railroad Cars at the Manufacturer's plant in Hamilton, Ontario, Canada, for the purpose of managing such railroad cars as agent for the Investor and as provided by the Management Agreement.

Although SMC/SRS has the right under the Management Agreement to manage each of the Investor's Covered-Hopper Railroad Cars, SMC/SRS does not have title to, and is not the owner of, any of the Investor's Covered-Hopper Railroad Cars.

B. Description of Other Documents Previously Submitted to the Commission for Recording.

Reference is also hereby made to the following two documents, an original of each of which has been recorded by the Commission and two certified true copies of each of which have been recorded and filed by the Commission under the recordation numbers, and on the date and at the hour set forth below:

<u>DOCUMENT</u>	<u>RECORDATION NUMBER</u>	<u>DATE</u>	<u>HOOR</u>
(i) Agreement, dated as of November 7, 1978, by and between the <u>Genesee and Wyoming Railroad Company</u> , 3846 Retsof Road, Retsof, New York 14539, and <u>States Marine Corporation</u> , doing business through its division, <u>States Rail Services</u> , 280 Park Avenue, New York, New York 10017 (said Agreement being hereinafter called the "GWRR Use Agreement"); and	#9946	12/27/78	1:35 p.m.
(ii) Subcontractor Agreement, dated as of November 7, 1978, by and between <u>States Marine Corporation</u> , doing business through its division, <u>States Rail Services</u> , 280 Park Avenue, New York, New York 10017, and <u>GWI Rail Management Corp.</u> , 3846 Retsof Road, Retsof, New York 14539 (said Subcontractor Agreement being hereinafter called the "Subcontractor Agreement")	#9946A	12/27/78	1:35 p.m.

1. The GWRR Use Agreement.

Pursuant to the terms of the GWRR Use Agreement, SMC/SRS, acting in its capacity as agent for the Investor under the Management Agreement, has delivered to the Genesee and Wyoming Railroad Company ("GWRR"), for the latter's use in the ordinary course of its operations, each of the Investor's Covered-Hopper Railroad Cars.

2. Subcontractor Agreement.

Pursuant to the terms of the Subcontractor Agreement, SMC/SRS has subcontracted to GWI Rail Management Corp. ("GWIRM") certain operational and managerial responsibilities which have been assumed by SMC/SRS under the Management Agreement and the GWRR Use Agreement in respect of each of the Investor's Covered-Hopper Railroad Cars.

Reference is also hereby made to the letter of transmittal, dated December 21, 1978, from States Rail Services to the Commission, for a more complete description of the arrangements and transactions contemplated by the GWRR Use Agreement and the Subcontractor Agreement.

C. Rights and Interests in the Cars.

The rights and interests in and to the Investor's Covered-Hopper Railroad Cars of each of the parties named herein may be briefly summarized as follows:

<u>Party</u>	<u>Rights and Interests in the Cars</u>
John M. Randolph.	Owner and Mortgagor of the Cars
The First National Bank of Boston	Mortgagee of the Cars
States Marine Corporation/States Rail Services.	Manager of the Cars
Genesee and Wyoming Railroad Company.	User or Bailee of the Cars
GWI Rail Management Corp.	Manager of the Cars

D. Procedural Matters.

It is hereby respectfully requested that each of the following names be inserted in the Commission index established pursuant to Section 1116.5(c) of Title 49 of the Code of Federal Regulations:

- (1) The First National Bank of Boston;
- (2) John M. Randolph;
- (3) States Marine Corporation;
- (4) States Rail Services;

- (5) Genesee and Wyoming Railroad Company; and
- (6) GWI Rail Management Corp.

It is also hereby respectfully requested that the recordation number of each of the following documents be noted in the Commission index under the name of each of the parties shown above:

- (a) the Note;
- (b) the Management Agreement;
- (c) the GWRR Use Agreement (Recordation Number: 9946); and
- (d) the Subcontractor Agreement (Recordation Number: 9946A).

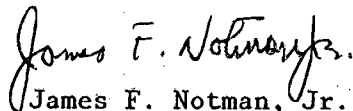
A check in the amount of One Hundred Dollars (\$100.00) has been enclosed with this letter of transmittal to cover the recordation fee prescribed by Section 1116.3(d) of Title 49 of the Code of Federal Regulations.

Kindly stamp the enclosed copy of this letter of transmittal and return such copy and the original documents enclosed herewith to Louis J. Duval, Esq., Bingham, Dana & Gould, 100 Federal Street, Boston, Massachusetts 02110.

If there are any questions with respect to the Note, the Management Agreement, the GWRR Use Agreement, the Subcontractor Agreement or the transactions described therein please feel free to telephone Louis J. Duval, Esq., collect, at (617) 357-9300.

The undersigned hereby declares that he is an Assistant Vice President of The First National Bank of Boston, and that he has knowledge of the matters set forth in the documents enclosed herewith.

Very truly yours,



James F. Notman, Jr.
Assistant Vice President

Enclosures

STATE OF NEW YORK)

COUNTY OF NEW YORK)

ss.:

On this 30th day of JULY, 1979, before me personally appeared WILLIAM A. CRAIG JR., to me personally known, who being by me duly sworn, says that he is the Secretary of States Marine Corporation and that the foregoing instrument was executed on behalf of States Marine Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of States Marine Corporation.

Rita Eileen Breslin
Notary Public

My commission expires:

[Notarial Seal]

RITA EILEEN BRESLIN
Notary Public, State of New York
No. 24-5442310
Qual. in Kings Co.-Cert. Filed in N.Y. Co.
Commission Expires March 30, 1980

STATE OF California)

COUNTY OF San Francisco)

ss.:

On this 6th day of August, 1979, before me personally appeared Donald H. Gleason, to me personally known, who being by me duly sworn, says that he is the Vice President, Operations of BRAE Corporation and that the foregoing instrument was executed on behalf of BRAE Corporation by authority of its Board of Directors or the Executive Committee, and he acknowledged that the execution of the foregoing instrument was the free act and deed of BRAE Corporation.

Mirella R. Abbo
Notary Public

My commission expires:

2/25/83

[Notarial Seal]



ASSIGNMENT AGREEMENT

WHEREAS, States Marine Corporation ("States Marine") has, either directly or through its States Rail Services division, under or in connection with the States Rail Services Covered Hopper Car Management Program, 1978-1983 (the "Program"), entered into the following contracts: (1) a Management Agreement with each participant in the Program (except itself); (2) a Subcontractor Agreement with GWI Rail Management Corp. ("GWIRM"); (3) two separate GWRR Agreements with Genesee and Wyoming Railroad Company "GWRR"); (4) a Shurtleff Lease with W. H. Shurtleff Co.; (5) a Fiscal Agency Agreement with The First National Bank of Boston (the "Bank") and each participant (except GWI Leasing Corp. ("GWILC")) that has financed its purchase of railcars through a loan from the Bank; (6) an Agreement and Consent to Assignment with the Bank and GWILC; and (7) a Collection Agency Agreement with the Bank and GWRR (the contracts listed in (1)-(7) above being hereinafter collectively called the "Contracts"); and

WHEREAS, States Marine and BRAE Corporation ("BRAE") have agreed, subject to the consents contained at the foot hereof, that States Marine will assign to BRAE its rights and obligations as manager and fiscal agent under and in connection with the Program;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. States Marine hereby sells, transfers, conveys, assigns and delivers to BRAE all of the Contracts and all of States Marine's rights, title and interest, as agent and in its individual capacity (except as railcar owner), in, to and under the Contracts from this day forward, with the exception of Section 5 of the Fiscal Agency Agreements.

2. BRAE hereby accepts the assignment contained in Paragraph 1 above and covenants with States Marine to assume and faithfully perform and discharge all the terms, conditions, duties, obligations and responsibilities to be performed and discharged by States Marine as agent or in its individual capacity (except as railcar owner) under the Contracts from this day forward, with the exception of Section 5 of the Fiscal Agency Agreements; it being understood by the parties hereto that BRAE shall have no liability for the performance prior to the date hereof by States Marine under the Contracts.

3. States Marine and BRAE hereby agree to indemnify and hold harmless GWIRM, GWRR and the Bank and each of them from and against any and all claims, actions, judgments, settlements, damages, expenses (including reasonable attorneys' fees), losses or liabilities incurred by or asserted against GWIRM, GWRR and the Bank arising out of or in connection with the assignment of duties and obligations by States Marine hereunder.

4. It is expressly agreed and understood that as between States Marine and GWIRM, between States Marine and GWRR, between States Marine and the Bank and between States Marine and each of the participants in the Program, as such relationships appear in each of the several Contracts, that this assignment shall not constitute a novation of such Contracts but only a subcontracting of States Marine's rights and duties as agent or in its individual capacity (except as railcar owner) under such Contracts and that States Marine will at all times remain responsible, as assignor, to GWIRM, GWRR and the Bank for the due, prompt and punctual performance of its obligations thereunder.

5. This Assignment Agreement shall be governed by and construed under the laws of the State of New York.

IN WITNESS WHEREOF, States Marine and BRAE have caused this Assignment Agreement to be duly executed as of this 6th day of August, 1979.

STATES MARINE CORPORATION

By: [Signature]

Secretary

BRAE CORPORATION

By: [Signature]

We each hereby consent to this Assignment Agreement.

GWI RAILCAR MANAGEMENT CORP.

By: [Signature]

GENESEE AND WYOMING RAILROAD COMPANY

By: [Signature]

THE FIRST NATIONAL BANK OF BOSTON

By: [Signature]

ASSISTANT VICE PRESIDENT

STATE OF NEW YORK)

COUNTY OF NEW YORK)

ss.:

On this 30th day of JULY, 1979, before me personally appeared WILLIAM A. CRAIG JR., to me personally known, who being by me duly sworn, says that he is the Secretary of States Marine Corporation and that the foregoing instrument was executed on behalf of States Marine Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of States Marine Corporation.

Rita Eileen Breslin
Notary Public

My commission expires:

[Notarial Seal]

RITA EILEEN BRESLIN
Notary Public, State of New York
No. 24-5442310
Qual. in Kings Co.-Cert. Filed in N.Y. Co.
Commission Expires March 30, 1980

STATE OF California)

COUNTY OF San Francisco)

ss.:

On this 6th day of August, 1979, before me personally appeared Donald H. Gleason, to me personally known, who being by me duly sworn, says that he is the Vice President, Operations of BRAE Corporation and that the foregoing instrument was executed on behalf of BRAE Corporation by authority of its Board of Directors or the Executive Committee, and he acknowledged that the execution of the foregoing instrument was the free act and deed of BRAE Corporation.

Mirella R. Abbo
Notary Public

My commission expires:

2/25/83

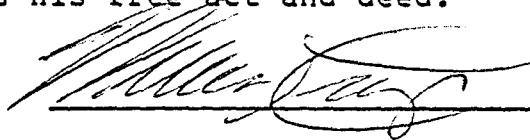
[Notarial Seal]



For Owner who is an individual:

STATE OF *NEW YORK*)
COUNTY OF *NEW YORK*) SS:

On this *15TH* day of *November*, 1978, before me personally appeared *JOHN M. RANDOLPH* (name of signer of foregoing instrument), to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.



WILLIAM A. CRAIG JR.
Notary Public, State of New York
No. 30-0791264
Qualified in Nassau County
Commission expires March 30, 1979

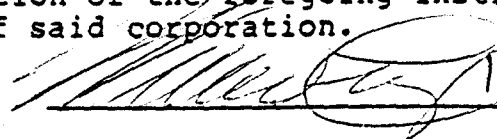
For Owner which is a corporation:

STATE OF)
COUNTY OF) SS:

On this day of , 1978, before me personally appeared (name of signer of foregoing instrument), to me personally known, who being by me duly sworn, says that he is the (title of office) of (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

STATE OF *NEW YORK*)
COUNTY OF *NEW YORK*) SS:

On this *15TH* day of November, 1978, before me personally appeared *ARTHUR J. KIRKMAN*, to me personally known, who being by me duly sworn, says that he is the ~~executive officer~~ of STATES MARINE CORPORATION, that ~~the seal affixed to the foregoing instrument is the corporate seal of said corporation,~~ that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



WILLIAM A. CRAIG JR.
Notary Public, State of New York
No. 30-0791264
Qualified in Nassau County
Commission expires March 30, 1979